

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

HARVARD REAL ESTATE-ALLSTON, INC.

Plaintiff,

v.

KMART CORPORATION,

Defendant.

Civil Action No. 04-12249-DPW

AFFIDAVIT OF WILLIAM R. MOORMAN, JR.

William R. Moorman, Jr., under oath, hereby deposes and states as follows:

1. I am a shareholder of Craig and Macauley Professional Corporation ("Craig and Macauley"), counsel to Kmart Corporation ("Kmart") in the above-captioned case. I submit this Affidavit pursuant to the direction of the Court in connection with the hearing on the motion to remand held by the Court on January 11, 2005.

2. Craig and Macauley has not yet billed Kmart with respect to this case. I have, however, reviewed Craig and Macauley's time records related to the case and have ascertained the legal fees that Craig and Macauley will bill to Kmart at its normal hourly rates for the services it rendered through January 11, 2005 in connection with prosecution of this case upon its removal to federal court. Such time charges total \$24,087, and represent 12.6 hours at \$325 per hour, 37.6 hours at \$250 per hour, 58.4 hours at \$175 per hour and 3.1 hours at \$120 per hour. This total does not include time

related to (i) initial review and consultation with Kmart related to the state court eviction proceeding filed by Harvard Real Estate-Allston, Inc. ("Harvard"); (ii) responding to discovery propounded by Harvard to Kmart in the state court action; (iii) preparation of discovery propounded by Kmart upon Harvard that will be utilized in the state court action; (iv) review and consideration of matters that occurred in Kmart's Illinois bankruptcy case; or (v) other matters related to proceeding in the state court action. This total also reflects normal adjustments for office conferences and duplication of effort that Craig and Macauley does not bill to its regular clients or that are expressly not compensable under Kmart's standard Attorney Representation and Billing Guidelines.

Because this matter has not yet been billed to Kmart, it does not include any downward adjustments that might be made after the bill is received and reviewed by Kmart or that may result from the application of Kmart's standard Attorney Representation and Billing Guidelines, which, for example, may exclude payment for certain research time engaged in by Craig and Macauley.

Signed under the pains and penalties of perjury this 12th day of January, 2005.

/s/ William R. Moorman, Jr.
William R. Moorman, Jr.